



Companions & Homemakers™

We know what you're going through.

FEBRUARY 26, 2009

COMMITTEE ON LABOR AND PUBLIC EMPLOYEES

TESTIMONY OF COMPANIONS & HOMEMAKERS, INC. IN OPPOSITION TO HOUSE BILL 6332 -- AN ACT CONCERNING HOME HEALTH CARE AIDES AS INDEPENDENT CONTRACTORS

Companions & Homemakers, Inc. (C&H) is a homemaker-companion agency in business since 1990. C&H has 10 offices throughout the State of Connecticut. The company cares for over 3000 older adults and employs approximately 1600 caregivers. C&H provides companion, homemaker, and personal care services to its clients.

House Bill 6332 seeks to exclude from the unemployment compensation scheme certain individuals who perform homemaker, companion, or home health services. (Its title notwithstanding, H.B. 6332 does not actually grant such workers "independent contractor" status.) C&H respectfully believes that H.B. 6332 likely will result in significant confusion to the elderly consumer and workers, and will unnecessarily create more problems than solutions. C&H also *opposes* H.B. 6332 for the reasons listed below.

❖ The "independent contractor" test is very fact specific. Each determination must be made on a case-by-case basis. Tax, employment, and wage and hour laws have different tests for determining whether a person is an independent contractor. The result also depends on whether state, federal, common law or statutory law is being applied. H.B. 6332 does not appear to take these critical matters into consideration. H.B. 6332's enactment into law likely will generate consumer and worker confusion and its application will lead to inconsistent results.

❖ Homemakers, companions, and personal care assistants typically have been viewed as "employees" instead of "independent contractors." *See, e.g., Paffen v. Griswold Special Care FMCH, Inc.*, 9019-BR-97 (Board of Unemployment Review held that companion employed by registry was deemed to be an "employee," not an independent contractor); *Latimer v. Administrator*, 216 Conn. 237 (1990) (privately-hired home care aide held to be "employee" of family for the purposes of liability for payment of state unemployment taxes). If enacted into law, H.B. 6332 would upset the status quo and settled legal principles.

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❖ This bill does not protect the interests of the consumer and creates a false sense of security. First, it would be very difficult for consumers to determine with certainty that the particular worker being hired indeed meets the requirements of this proposed bill and thus exempted from unemployment rules. Even if this were easily done, the consumer may continue to be liable for other taxes or payroll deductions. The bill also would encourage the hiring of untrained, unsupervised and unscreened individuals to care for elderly consumers.

❖ The bill hurts workers. H.B. 6332 hurts workers by leaving them without unemployment (and worker's compensation) protection. Moreover, it renders these workers susceptible of abuse by so-called registries and direct placement agencies.

For all these reasons, C&H opposes H.B. 6332. C&H remains committed to working with the General Assembly and this Committee to explore other avenues for making home care more affordable without sacrificing important public policy considerations.

Thank you for your consideration.

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